only by reason of some fact existing at the time of its formation." It may be remarked in passing that the contract of rescission is a distinct, new contract and that rescission, properly speaking, has nothing whatever to do with anything existing at the time of the formation of the contract rescinded.

There is not space to refer to other instances in this treatise of the author's unscientific method. He has disclosed and unwittingly confessed it by the language which he uses, at the end of the volume, in Section 645: "To attempt to establish any theory of contract which does not rest on the rules and ideas governing the Courts in their actual decisions is a grave mistake. To construct a scientific theory upon those rules and ideas is possible only by the exclusion of the notion that the same principle must always govern classes of contracts which have a widely different history." Would it not be truer to say that a scientific theory could only be constructed by the inclusion of that very notion or fact, and by keeping it constantly in mind? It would seem that not only should the author of a treatise on the law of contracts bring everything to the test of the historical nature of a simple contract, but that, so far from being confused or diverted by "the rules and ideas governing the Courts in their actual decisions," he should brand such rules and ideas as unsound when they violate the historical characteristics of the simple contract as we have it—never forgetting to state, however, how far such decisions are of settled authority in the jurisdictions in which they were rendered.

A TREATISE ON THE PROCEDURE IN SUITS IN EQUITY IN THE CIRCUIT COURT OF THE UNITED STATES. By C. L. Bates. Chicago: T. H. Flood & Co. 1901. 2 vols.; pp. lxii, 599; 600–1407.

A treatise upon the subject of Equity Pleading and Practice as it exists in our Federal courts supplies a real need of both student and practitioner. The adoption, in many of our States, of systems of code pleading and practice in which the time honored principles of pleading in equity have been abandoned or ignored has rendered the preparation of pleadings and the conduct of a cause in equity almost an unknown art: and that, notwithstanding the fact that our Federal equity courts, in which occur much of the important litigation of the country have retained this ancient system of pleading and practice with comparatively slight modification. Notwithstanding this fact the profession has hitherto, with perhaps one exception, been without the aid of any treatise of real merit dealing with the subject.

Mr. Bates' work, though not without defects, is on the whole most commendable. In the opening chapters he points out the source and traces the development of the present system of pleading and practice in the Federal equity courts. In the succeeding chapters he deals with the subject in the logical way by first considering, in the discussion of each topic, the rule of pleading and practice as applied by the English courts of chancery, making for this purpose frequent though judicious use of the earlier writers, Redesdale, Smith and Daniel. He then discusses the application

of the rule under the present practice in the Federal courts as modified by statute, rule of court, or judicial decision, citing the decision of our Federal courts and often in the text quoting at length from the opinions in elucidating the subject under discussion.

The work in the main is comprehensive, including chapters on masters, receivers, injunctions and appeals, though an occasional topic, as for example bills with a double aspect, is inadequately or at least meagerly treated, and it is disappointing to find no discussion of the important subject of jurisdiction as affected by local statutes.

An appendix of over four hundred pages containing the Federal Constitution, Judiciary Acts and various collections of court rules, increases the usefulness of the work, though it adds to the massive appearance of the two volumes in a manner hardly warranted by the scope and amount of the text.

The author has the fault common to most text writers of relying too much upon the statement of general principles and too little upon the analysis and discussion of decided cases. This fault, however, is partly atoned for by the use of a direct and lucid style which enables the reader to comprehend with ease the most difficult branches of the subject. Excellent though not unusual examples of this will be noted in his discussion of the obscure doctrines of discovery, negative pleas and answers in support of the plea. The reader will also note in connection with these topics the failure to cite certain important decisions of the Federal Courts with which he may be familiar. Whether such omissions are general throughout the work can only be determined by its continued use, but if such should prove to be the case the usefulness of the work to the practitioner would be impaired. Be this as it may, the logical arrangement, clear and reasonably comprehensive statement of rules and principles render the work a welcome guide in an unknown country, for which the thanks of the profession are due to the author.

A HANDBOOK OF THE CODE OF CIVIL PROCEDURE. By Charles C. Alden. New York: Baker, Voorhis & Company. 1901. pp. vi, 170. The preface to this small volume opens with the following statement: "The Code is a difficult volume to study; its numerous sections contain, in great proportion, details of practice and procedure which are wholly unnecessary to consider in order to obtain that general knowledge of its provisions, which is all that the student may hope or should seek to gain." If this were a correct statement of the extent and character of the knowledge of the Code which the student should acquire, there would be some excuse for this work; but even then, the purpose of the author might be more successfully accomplished by printing, in an analytical form, the full text of the sections which he deems important, the provisions of which he has attempted to state in a condensed form.

Most of the sections chosen by Professor Alden are statements, concisely made, of prior statutory enactments, or of rules of pleading and practice declared or suggested by decisions of the courts;